

**ITEM #:** \_\_\_\_\_  
**FISCAL IMPACT:**           N/A            
**FUNDING SOURCE:**           N/A            
**ACCOUNT NUMBER:**           N/A            
**BUDGET OPENING REQUIRED:**           N/A          

**ISSUE:**

Approve an Agreement of Mutual Rescission with Nichols Building, LLC for the 6400 West Storm Drain Project previously approved under Resolution 09-282.

**SYNOPSIS:**

On August 24, 2009 the City and Nichols Building, LLC executed an agreement for the construction of the 6400 West Storm Drain Project. The agreement provided the contractor with 45 days to complete the work however, as of September 23, 2009 construction had not begun.

**BACKGROUND:**

Due to seasonal limitations, this project needed to be complete by October 17, 2009. As of September 23, 2009, the contractor had not started construction and the City did not believe the project could be completed on time. After considering several options, the City determined that rescinding the original agreement was the most efficient option for the City. The contractor has agreed to the Agreement of Mutual Rescission.

There were additional bids, but because of the seasonal limitations the City will wait until spring 2010 and re-bid the project.

**RECOMMENDATION:**

The staff recommends approving the execution of a Mutual Rescission Contract and re-bidding the project in spring 2010.

**SUBMITTED BY:**

Russ Willardson, P.E., Public Works Director